IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.213 OF 1996

The Commissioner of Income Tax
Kolhapur .. Applicant.

V/s.

Shri Vithal SSK Ltd., A/p.Gursale
Tal.Pandharpur Dist.Solapur .. Respondent.

Mr.A.S. Rao with Mr.Pankaj Kapoor for the applicant.

Mr.S.N. Inamdar with Mr.P. Vaidya for the respondent.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 26TH APRIL, 2005.

P.C. :

1. Heard the learned counsel for the parties. The Tribunal has referred following questions for the opinion of this Court, reading as under :

> 1. Whether on the facts and in the circumstances of the case the Tribunal was justified in treating the refundable deposits as loans and not as income ?
>
> 2. Whether on the facts and in the circumstances of the case, the Tribunal was justified in law in holding in respect of various funds that the assessee acted as of the State Government. For spending them on the purposes specified by the State Government and that collections were made by way of retaining amount of the cane price payable to the sugar cane growers and hence are not trading receipt liable to tax ?

2. In so far as question No.1 is concerned, the same is squarely covered in favour of the assessee and against the revenue and so far as question No.2 is concerned, all other items except area development fund is concerned, the issue is covered by the decision of the Apex Court in the case of **Siddheshwar S.S.K. Ltd. V/s. CIT [(2004) 270 ITR 1 (SC)]** in favour of the assessee and against the revenue. So far as Area Development Fund is concerned, the issue will have to be referred back to the Tribunal for consideration afresh as per the judgment of the Apex Court in the case of Siddheshwar S.S.K. Ltd. (supra) as such the said issue stands remitted back to the Tribunal for consideration afresh.

3. The reference is disposed of in the above terms with no order as to costs.

(V.C. DAGA, J.)

(J.P. DEVADHAR, J.)